FY21 COMPENSATION BOARD BUDGET HEARING

April 28, 2020 – Online Meeting Richmond, VA

10:00 a.m.

Tyrone Nelson, Chairman Martha Mavredes, Ex-officio Member Craig Burns, Ex-officio Member

COMPENSATION BOARD FY21 BUDGET PRIORITIES

The Compensation Board develops priorities each year to be used in establishing the budgets for all Constitutional Officers. To begin the budgeting process, the Compensation Board applies its general priorities in establishing a base funding level for each office, considering annual budget requests of constitutional officers and General Assembly actions, prior to determining individual budget amounts. These general priorities include:

- Level funding of existing base budgets for personnel, including salaries for permanent positions, fringe benefits, hourly-wage/temporary funding and office expense funding.
- Continued funding for existing participants in career development programs.
- Allocation of any positions and funding established through legislative actions.
- Salary adjustments for Constitutional Officers changing population groups.
- Reclassifications where there is no salary cost.
- Allocation of positions based on the position reallocation policy.
- No funding is available for equipment for any offices. For local and regional jails, LIVESCAN equipment funding previously considered during the budget allocation process for will be considered on an individual request basis at regularly scheduled Board Meetings (Clerks' Technology Trust Funds are not a part of base budget funds and budgeted separately beginning in the late summer).

COMPENSATION BOARD FY21 LEGISLATIVE ISSUES ALL CONSTITUTIONAL OFFICERS

Freedom of Information Act Training Requirement:

\$B139 amends §2.2-3704.3 of the Code of Virginia related to training on the Freedom of Information Act (FOIA) for local officials, established by the 2019 General Assembly. The statute presently requires all local elected officials to complete a FOIA training session within 2 months of taking office, and once every 2 calendar years thereafter, throughout their term(s) of office. Currently, the FOIA Council is required to make available online training to meet this requirement. The provisions of SB139 allow the FOIA Council to also provide this training in-person to meet the requirement, and clarifies that "local elected officials" include constitutional officers. The FOIA Council provides in-person training to newly elected constitutional officers at the Compensation Board's New Officer Training.

Collective Bargaining for Local Employees:

HB582 enables counties, cities and towns to adopt ordinances to allow for collective bargaining for local employees. The provisions allowing for collective bargaining **DO NOT** apply to constitutional officers or employees of constitutional officers.

JLARC Study of Compensation Board Funding:

HJ83 was a resolution to direct the Joint Legislative Audit and Review Commission (JLARC) to study Compensation Board funding for constitutional officers, the trends and trajectory of general fund support in the state budget, the metrics by which support is determined, the equity of such state support, and the degree to which localities are supplementing the Commonwealth's funding. The resolution was not passed by the General Assembly; however, the committee acting on the measure asked that a letter be sent to JLARC requesting their consideration for conducting the study at their discretion.

COMPENSATION BOARD FY21 LEGISLATIVE ISSUES SHERIFFS AND REGIONAL JAILS

Courthouse Security Local Fee Increase:

SB149 Increases from \$10 to \$20 the maximum amount a local governing body may assess against a convicted defendant as part of the costs in a criminal or traffic case in district or circuit court. Under the provisions of §53.1-120, Code of Virginia, the assessment of this fee shall be used solely for the funding of courthouse security personnel, and, if requested by the sheriff, equipment and other personal property used in connection with courthouse security.

Renaming the Board of Corrections:

SB622 renames the State Board of Corrections as the State Board of Local and Regional Jails (the Board), authorizes the Board to appoint and employ an executive director, and requires the Board to report annually to the General Assembly and the Governor on the results of inspections and audits of local, regional, or community correctional facilities and the reviews of the deaths of inmates that occur in any local, regional, or community correctional facility. The bill requires the Board, upon determining that a local correctional facility is not in compliance with the minimum standards for construction, equipment, administration, or operation of local correctional facilities, to provide written notice of such determination to the local correctional facility. The bill also removes the Department of Corrections from under the purview of the Board.

Immigration Alien Queries To U.S. ICE:

HB1150 provides that the provisions of §19.2-83.2 and §53.1-218 requiring jail officers to ascertain the citizenship of any inmate taken into custody at a jail, and make an immigration alien query to the U.S. Immigration and Customs Enforcement (ICE) when the inmate was born in another country or is a citizen of another country, are limited to inmates taken into custody for felony offenses. Currently, the jail must make such queries for any inmate committed to jail. Query responses identifying that the individual incarcerated for felony offense(s) is not legally present must still be reported to the LIDS-ICE system housed on the Compensation Board's website for transmittal to Virginia State Police.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES ALL OFFICES

Salary Increases:

There are no across-the-board or performance-based increases approved for FY21 for any constitutional offices or regional jails. Funding for a salary bonus of 2% effective December 1, 2020, initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, for FY21 (and initially providing that the governing authority of such employees uses such funds to support the provision of a bonus) cannot be allocated at this time. Initial language regarding the bonus also included a contingency requirement that FY2020 year-end revenue exceed the threshold requiring a re-forecast for implementation to occur.

Based upon the passage of **\$B7/HB395** related to an increase in the minimum wage, the 2020 General Assembly included funding to increase the minimum wage from \$7.25/hour to \$9.50/hour effective May 1, 2021. Although the current minimum salary on the Compensation Board's classification and pay plan exceeds the annual salary at \$9.50/hour, any position that is currently underfunded will be affected by this language.

Based on 2020 population estimates provided by the Weldon Cooper Center for Public Service, Greene County has met a locality population-based threshold of 20,000 and Montgomery County has met a locality population-based threshold of 100,000. As a result, the salaries of all constitutional officers serving Montgomery County and all officers except the Commonwealth's Attorney serving Greene County have been adjusted to reflect an increase effective July 1, 2020, based on authorizing language contained in the 2020 Appropriation Act.

New Positions:

With the exception of a limited number of positions to be reallocated in accordance with the position reallocation policy in sheriffs' offices, clerks' offices and finance directors' offices, no additional positions and funding are available to allocate at this time to address additional staff needs based upon staffing standards for the offices of any Constitutional Officers, Regional Jails, or Finance Directors.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES ALL OFFICES

Career Development Programs:

The 2020 General Assembly did not approve funding to support additional participation in existing career development programs in FY21. Salary increases for newly funded participation in FY21 will be approved where existing funds have accrued through attrition of former funded participants.

Premium Recoveries:

In FY20, The Compensation Board will recover:

- 100% of the cost of premiums paid on behalf of constitutional officers, regional jails, and their employees to the Division of Risk Management (DRM) for the VARISK general liability insurance and surety bond coverage;
- 100% of the unfunded portion of the premium paid to the Virginia Retirement System (VRS) for the retiree health care credit (the unfunded portion represents 35% of the total projected premiums to be paid by the Compensation Board);
- \$80,000 from sheriffs and regional jails to support jail risk management training.

Since FY17, budget language requires the Division of Risk Management (DRM) to identify premium amounts by office, incorporating factors such as claims history, staffing, and average daily jail populations into the methodology for the distribution of premium recovery amounts by office, which can result in significant shifts of cost among offices from year to year. In FY21, the total VARISK general liability premium will increase approximately 8.88% by \$1 million statewide, and every office's proportion of the new total will change somewhat in FY21 based upon these factors; some offices will see an increase of up to 48.88% in their premium amounts, while other offices will see a decrease in their premium amounts.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES ALL OFFICES

Salary Increase Non-Supplanting Language:

Language preventing local governments from using Compensation Board funding to supplant local funds provided for salary increases of constitutional officers and their employees on July 1, 2012, under the provisions of Chapter 822, 2012 Acts of Assembly, remains unchanged.

In accordance with the provisions of SB497 from the 2012 Session of the General Assembly (aka Chapter 822, 2012 Acts of Assembly), localities provided a 5% salary increase (unless phasing in) on July 1, 2012 to constitutional officers and their employees to offset the transition of the payment of the 5% member contribution to VRS for retirement premiums from the locality to the employee. Any Compensation Board funded salary increase funds cannot be used to offset the 5% salary increase amount (or phase-in amount) funded by the locality in association with this VRS contribution change.

This language regarding non-supplanting of local funds does not apply to any salary supplement amounts provided by localities that exceed the 5% increase related to the VRS member contribution amount, nor does it apply to employees hired into a Compensation Board funded position after July 1, 2012 (or after July 1, 2010 if locality implemented phase I and phase 2 programs at that time).

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES SHERIFFS AND REGIONAL JAILS

Salary Increases:

Salary increases for regional jails were initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time. This specific increase was for entry level regional jail officers to match an increase previously provided for entry level deputy sheriffs - \$897 for each entry level jail officer with less than one year of service and \$938 for those

with more than one year of service in a

Compensation Board funded entry level jail officer

position;

New Positions:

Positions and funding to support 29 new court services deputy sheriff positions were initially approved by the 2020 General Assembly to allocate in accordance with staffing standards, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time.

Positions for New or Expanded Jail Capacity:

Funding and positions to support the expansion of the Prince William-Manassas Regional Jail originally allocated in anticipation of a FY20 opening remain in the FY21 approved budget based on a new anticipated completion date of July, 2020 with 79 new positions.

Automatic Regrades from Grade 7 to 8 for Sworn Deputies:

Automatic regrades from grade 7 to grade 8 for deputy sheriffs and regional jail officers that occur on the first of the month on or after the one-year anniversary of the date of hire into a grade 7 deputy or officer position are accompanied by a 4.56% salary increase.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES SHERIFFS AND REGIONAL JAILS

Jail Per Diem Payments:

Based on current projections of inmate population levels in the next biennium, FY21 funding of \$58.6 million was included in the introduced budget and approved by the 2020 General Assembly for inmate per diem payments.

Language in the Appropriation Act provides that should funds available for a quarterly per diem payment be insufficient to cover the entire amount of the payment, the payment will be pro-rated accordingly.

Any revisions to funding needed associated with inmate population levels for FY21 will be determined based on updated population forecasting during the fall 2020 budget development process and considered during the 2021 General Assembly session.

Federal Overhead Cost Recovery:

The methodology for recovery of the costs borne by the Commonwealth associated with the housing of federal inmates in local and regional jails (excluding construction costs) remains unchanged in FY21.

Nottoway County Funding For Offenders from Virginia Center For Behavioral Rehabilitation:

Beginning with FY17, the General Assembly has approved funding of \$100,000 in each year to reimburse Nottoway County for incurred costs of confinement of residents of the Virginia Center for Behavioral Rehabilitation arrested for new offenses and housed in Piedmont Regional Jail. An additional appropriation of up to \$98,664 in FY21 and \$115,939 in FY22 was approved by the 2020 General Assembly to reimburse actual expenses incurred. Budget language provides for the reimbursement timeline and necessary demonstration of costs incurred for the Compensation Board to reimburse the County.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES SHERIFFS AND REGIONAL JAILS

Withholding of Reimbursements:

Since July 1, 2016, the Compensation Board has been authorized to withhold reimbursements due the locality for sheriff and jail expenses if the sheriff fails to self-certify their compliance with information transmittal requirements to the Sex Offender and Crimes Against Minors Registry of the Virginia State Police.

Since July 1, 2007, the Compensation Board has been authorized to withhold reimbursements due the locality for sheriff and jail expenses upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by a locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect.

Upon subsequent notification by the Superintendent that crime reporting data is submitted accurately and/or timely, or upon certification by the sheriff that information transmittals are meeting requirements, the Compensation Board shall make reimbursement of withheld funding due the locality, when such corrections and/or certifications are made within the same fiscal year that funds have been withheld. The Board will review and act upon late data reporting as notified by the Department of State Police on a quarterly and/or annual basis and upon failures to certify compliance with information transmittal requirements on an annual basis.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES COMMONWEALTH'S ATTORNEYS

New Positions:

Positions and funding to support 19 Assistant Commonwealth's Attorney positions and 10 paralegal and administrative staff positions were initially approved by the 2020 General Assembly to allocate in accordance with staffing standards, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time.

Insurance Fraud Prosecutors:

Based on action during the 2017 and 2018 General Assembly sessions, a non-general fund appropriation of \$600,000 and five positions in each year of the biennium from the Virginia State Police Insurance Fraud Fund is provided to allocate and fund multijurisdictional Assistant Commonwealth's Attorney positions to prosecute insurance fraud. Allocation of these positions is contingent upon Virginia State Police identification of localities and local agreement to participate in the prosecution of these activities. Currently four of the five additional Assistant Commonwealth's Attorney positions have been allocated in accordance with the recommendations of the Virginia State Police; at this time the fifth position is not recommended for allocation in FY21.

Local Support for Body Worn Camera Implementation:

The 2020 General Assembly continued language approved in 2019 based on a recommendation of the 2018 Body Worn Camera study work group establishing guidelines for staffing requirements by localities for Commonwealth's Attorneys' offices to provide funding to support one Assistant Commonwealth's Attorney for every 75 body worn cameras employed by local law enforcement officers, but allows for any locality to implement alternative staff funding with the consent/agreement of the Commonwealth's Attorney. Any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the Compensation Board by July 1 of each year and shall remain in effect unless modified by the gareement of both parties until June 30th of the following year.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES COMMONWEALTH'S ATTORNEYS

Commonwealth's Attorneys' Body Worn Camera Study:

The 2020 General Assembly approved language continuing a body worn camera workgroup formed by the Secretary of Public Safety and Homeland Security in 2019 to expand upon a 2018 workgroup (that was limited to reviewing the impact of body worn cameras on the workload of Commonwealth's Attorneys) to examine the workload impact, as well as other fiscal and policy impacts, on the Commonwealth's public safety and judicial agencies as a whole, to include representatives from the Supreme Court, the Compensation Board, staff of the House Appropriations and Senate Finance Committees, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Secretary. Recommendations of the working group are to be reported to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2020, and are to include greater detail from each Commonwealth's Attorney's office in localities that employ body worn cameras regarding hours of footage and hours of redaction, in conjunction with the law enforcement agency using the body worn cameras, as reported to the Compensation Board and the workgroup.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES CIRCUIT COURT CLERKS

Salary Increases:

Salary increases for staff positions in Circuit Court Clerks' offices were initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time. This specific increase was for staff positions in Pay Bands 1 and 2 to address pay equity with district court clerk positions by increasing the Compensation Board entry-level salary and increasing salaries for positions with current salaries below the new entry-level.

New Positions:

Positions and funding to support 14 deputy clerk positions to establish a minimum of three staff positions in each Circuit Court Clerk's office were initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time.

Circuit Court Clerks' Foreclosure Pilot:

Language approved by the 2019 General Assembly and \$75,000 in funding is continued for the Williamsburg/James City County Circuit Court Clerk's office to conduct a pilot program to provide an online listing of foreclosures, continued courthouse posting of foreclosures, and to provide notice of foreclosures to the local newspaper for a limited period of time.

COMPENSATION BOARD FY21 SPECIFIC BUDGET ISSUES CIRCUIT COURT CLERKS, TREASURERS & COMMISSIONERS OF THE REVENUE

Circuit Court Clerks' Technology Trust Funds:

Beginning with FY11, the General Assembly approved a line of credit in the amount of \$8 million each year for budgeting Technology Trust Fund cash in the year in which is it collected. Amounts available for budgeting each fall are based upon any unspent collections from prior years and a projection of incoming cash for the current year, which may be less than the maximum \$8 million level. Reimbursements for expenses incurred cannot exceed actual cash collected during the budget year.

Language providing for the use of Technology Trust Funds (TTF) to offset previous general fund budget reductions continues to designate \$1.98 million of TTF collections each year for this purpose. The restoration of \$1 million in general fund appropriations to support Clerks' operating budgets, which would have reduced the non-general fund transfer, was approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time.

Salary Increases, Treasurers And Commissioners:

Salary increases for staff positions in Treasurers' offices were initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time. These specific increases were to refund approximately 50% of salaries of underfunded positions and re-fund salaries of 10% of unfunded positions.

Salary increases for staff positions in Commissioners of the Revenue's offices were initially approved by the 2020 General Assembly, but then unallotted during the Reconvened Session, and cannot be allocated for FY21 at this time. These specific increases were to re-fund 100% of salaries of underfunded positions and re-fund salaries of 10% of unfunded positions.

OFFICER SALARIES

Sheriffs/Regional Jails,

Commonwealth's Attorneys,

and Clerks: 100% of Appropriation Act amount.

Treasurers and 50% of 1980 salary amount plus 100%

Commissioners: of all increases to Appropriation Act amount.

OFFICER BENEFITS

Sheriffs/Regional Jails and Commonwealth's Attorneys:

FICA at 7.65% and VRS retirement at actual rate, not to exceed 2.13%, paid on 100% of approved salary amounts. Contributions for VRS Group Life Insurance will be required in FY21, and reimbursement will be

made at 0.28%.

Clerks: Benefit rates as stated above, paid on two-thirds of

approved salary amounts.

Treasurers and

Commissioners:Benefit rates as stated above, paid at same

percentage level as officer's salary.

FULL-TIME PERMANENT STAFF SALARIES & TEMPORARY (HOURLY/WAGE) STAFF SALARIES

Sheriffs/Regional Jails*,

Commonwealth's Attorneys,

and Clerks: 100% of Compensation Board approved amount.

Treasurers and

Commissioners: 50% of Compensation Board approved amount.

*Exception: Reimbursement amounts for Medical, Treatment, Classification, and Records positions in Sheriffs' offices and regional jails represent 2/3rds of the total salary approved by the Compensation Board.

FULL-TIME PERMANENT STAFF BENEFITS & TEMPORARY (HOURLY-WAGE) STAFF BENEFITS

Sheriffs/Regional Jails and Commonwealth's

Attorneys: FICA at 7.65% for full-time staff and hourly staff, and

VRS retirement at actual rate, not to exceed 2.13% for

permanent staff positions only, paid on 100% of approved salary amounts. Contributions for VRS Group Life Insurance will be required in FY20, and

reimbursement will be made at 0.28%.

Clerks: Benefit rates as stated above, paid on two-thirds of

approved salary amounts.

Treasurers and

Commissioners: Benefit rates as stated above, paid on one-half of

approved salary amounts.

OFFICE EXPENSES

Sheriffs/Regional Jails,

Commonwealth's Attorney's,

And Clerks: 100% of Compensation Board approved amount.

Treasurers and 50% of Compensation Board

Commissioners: approved amount.

EQUIPMENT

Sheriffs/Regional Jails: No funding is provided in FY21 for equipment.

Funding previously considered during the budget allocation process for LIVESCAN equipment is now considered on an individual request basis at regularly

scheduled Board Meetings.

Commonwealth's Attorneys,

Treasurers and Commissioners:

No funding is provided in FY21 for equipment.

Clerks: Clerks' technology funding requests will be

considered by the Compensation Board at its September 2020 Board Meeting after on-line budget requests are submitted in August. A stress factor will not be applied. An estimate of fiscal year 2021 technology trust funds has been provided on the Compensation Board website to assist in automation

planning for the upcoming fiscal year.

Based on language approved by the 2010 General Assembly, a line of credit of up to \$8 million will allow the Compensation Board to budget incoming

collections in FY21.

Budget language allows for up to \$1.98 million in nongeneral technology trust funds to be used in each year to offset a like amount of general fund operating budget reductions, that would otherwise impact clerks' staffing funding, from a previous biennium that

have not been restored.

MEETING AND CONFERENCE EXPENSES

All Officers: We anticipate continuing to offer programs in FY21 for

new officers and lawful employment practices.
Reimbursement will continue to be provided for expenses related to attendance at these training programs. Training will also be provided on a monthly basis for COIN (reimbursement and personnel processing system) and LIDS (Local Inmate Data System – per diems). No other funding is available for reimbursement of attendance at non-Compensation Board sponsored training events, although associated expenses may be reimbursed through existing office

expense budgets.

SUBSTITUTE PROSECUTOR EXPENSES

Commonwealth's Attorneys Only:

Direct reimbursement of travel expenses is provided to all Commonwealth's Attorneys and assistant Commonwealth's Attorneys not requesting hourly rate reimbursement.

Reimbursement of hourly rate fees, not to exceed \$50 per hour, plus expenses, only provided for "part time" Commonwealth's Attorneys or assistants.

EXCEPTION TO TREASURERS' FUNDING LEVELS

100% of all Compensation Board approved expenses are reimbursed for Treasurers in the cities of Colonial Heights, Lynchburg, and Richmond. Two-thirds of all Compensation Board approved salary and office expenses are reimbursed for Treasurers in the cities of Danville, Petersburg, and Williamsburg.

JAIL PER DIEM PAYMENTS

Per Diem Payments:

Funding rates established to compensate localities for the costs of housing inmates remain unchanged in FY21. The per diem rates for offenders that are arrested on a state warrant are, as required by law: \$4 for local responsible inmates housed in a local or regional jail, and \$18 for such inmates housed in a jail farm; \$12 for all state responsible inmates housed in all jail facilities.

Federal Overhead Recovery:

Language is included in the Appropriation Act for the recovery of the federal and out-of-state share of all state-funded costs including personnel, nonpersonnel (excluding construction costs), vehicle expenses, and grants, based upon the number of federal and out-of-state inmates housed in jail on a per day basis. The Compensation Board determines the overhead recovery amount based upon the per day state revenues provided in the most recent available Jail Cost Report, and will deduct it from the quarterly per diem payment for state and local inmates. Jails that are not owed sufficient quarterly per diem amounts against which to recover the overhead amount will be required to submit a payment to the Compensation Board in the amount that the overhead cost exceeds the per diem payment amount.

Emergency Medical Expenses:

The Compensation Board may reimburse localities for costs of emergency medical care incurred outside the jail for state responsible inmates overdue for transfer to the Department of Corrections, not to exceed \$377,010 per year statewide. The Compensation Board approves and reimburses in November and May of each fiscal year expenses incurred in the previous six months.